

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CR2014-110236-001 DT

12/11/2014

HONORABLE ROBERT L. GOTTSFIELD

CLERK OF THE COURT
T. Nelson
Deputy

STATE OF ARIZONA

NICHOLAS D MICHAUD

v.

RYAN E VIDAL (001)

KAMILLE RAE DEAN
MANUEL S SILVAS

APO-CCC
JUDGE WELTY
OFFICE OF PUBLIC DEFENSE
SERVICES-CCC

HEARING ON PENDING MOTION
SENTENCING CONTINUED

2:08 p.m.

State's Attorney:	Nicholas Michaud
Defendant's Attorney:	Kamille Dean
Defendant:	Present
Court Reporter:	Kristin Brown

This is the time set for Hearing on Pending Motion.

The Court read the Defendant's Motion, State's response and Defendant's reply.

Defendant's case:

Manuel Silvas is sworn and testifies telephonically.

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The witness is excused.

Donna Howell is sworn and testifies.

The witness is excused.

Ryan Vidal is sworn and testifies.

The witness is excused.

State's exhibit 1 is marked and admitted into evidence.

Defendant rests.

State's counsel has no evidence to present.

Because defense counsel found herself in the position of being a material witness and the surprised this caused the state and because such testimony is pertinent to the ultimate decision whether or not the defendant is entitled to withdraw from the plea,

IT IS ORDERED as follows:

1. Defense counsel is permitted to withdraw from representation;
2. Appointing new public counsel for defendant to be set forth in a forthcoming minute entry;
3. This judge, for reasons as stated on the record, and as requested by the state, recuses himself. This case will be sent to Judge Welty for assignment of a new judicial officer to set and conduct another manifest injustice hearing.
4. Ordering that Kristen Brown court reporter prepare a transcript of the testimony taken this day which will be paid for by the court, and send copies within 30 days of this date to all counsel.
5. Defendant argues, inter alia, that there are at least three instances that call into question whether former trial counsel (Mr. Silvas)
 - Was he told by Mr. Silvas the plea was 5 years or 3 to 5 years
 - Was he properly told he would be sentenced with a prior felony
 - What impact did the DUI attorney have with respect to a prior felony

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IT IS ORDERED Manuel Silvas shall be present for future hearings.

IT IS ORDERED affirming prior custody orders.

3:15 p.m. Matter concludes.

LATER:

IT IS ORDERED directing Court Reporter, Kristen Brown, to prepare a transcript of the hearing this date for this Court's review.

The Court has determined that a transcript of the proceedings is a reasonable and necessary expense this matter. Cost of the transcript shall be paid for by Maricopa County Superior Court.

This case is eFiling eligible: <http://www.clerkofcourt.maricopa.gov/efiling/default.asp>. Attorneys are encouraged to review Supreme Court Administrative Order 2011-140 to determine their mandatory participation in eFiling through AZTurboCourt.